

BROMSGROVE DISTRICT COUNCIL

MEETING OF THE LICENSING SUB-COMMITTEE

MONDAY, 29TH JULY 2019, AT 6.00 P.M.

PRESENT: Councillors C. J. Spencer, A. B. L. English and M. Glass

Officers: Mrs. V. Brown, Ms. S. Deeley, Mr. T. Phelan and Mrs. P. Ross

1/19 **ELECTION OF CHAIRMAN FOR THE MEETING**

RESOLVED that Councillor C. J. Spencer be appointed Chairman of the Sub-Committee for the meeting.

2/19 **APOLOGIES**

No apologies for absence were received.

3/19 **DECLARATIONS OF INTEREST**

No declarations of interest were received.

4/19 **APPLICATION FOR THE GRANT OF A PREMISES LICENCE IN RESPECT OF BIBBEY DC & SONS, 472 BROMSGROVE ROAD, ROMSLEY, HALESOWEN, WORCESTERSHIRE, B62 0JL**

The Sub-Committee considered an application for a Premises Licence, submitted by Mr. William Stephenson, in respect of Bibbey DC and Sons, 472 Bromsgrove Road, Romsley, Halesowen, Worcestershire, B62 0JL.

The application was subject to a Hearing in light of 7 representations received from members of the public. The basis of their representations was on the grounds of noise nuisance, public nuisance, increase in litter and anti-social behaviour.

It was confirmed that all Members of the Sub-Committee had conducted a site visit, an unannounced visit to the site for which the application had been submitted.

At the invitation of the Chairman, all parties present provided a brief introduction.

The Chairman asked Mr. Stephenson if he was aware that he could have had legal representation. Mr. Stephenson confirmed that he had been made aware and was happy for the Hearing to continue.

The Technical Officer (Licensing) Worcestershire Regulatory Services (WRS), introduced the report and informed Members that the location was a farmer's field, and that the application stated that the field would be used for an outdoor music festival and other events, as detailed on the application form.

The Technical Officer (Licensing) WRS, drew Members' attention to paragraph 2.4 of the report which detailed the hours being sought by the applicant for licensable activities, as follows:-

Activity	Days	From	To	Indoors/ Outdoors
Exhibition of Films	Everyday	10:00	22:00	Both
Performance of Live Music	Everyday	10:00	22:30	Both
Playing of Recorded	Everyday	10:00	22:30	Both
Sale of Alcohol	Everyday	10:00	22:00	

Members were further informed that a representation had been received from Environmental Health, Worcestershire Regulatory Services, one of the Responsible Authorities consulted with; who had raised concerns with regard to 'Prevention of Public Nuisance', as detailed at Appendix 2 to the report.

Seven representations had been received from members of the public, as detailed at Appendix 3 to the report.

The Technical Officer (Licensing) WRS, further drew Members' attention to paragraph 2.6 of the report which detailed that the applicant had agreed that the licence would only be used to authorise licensable activities on a maximum of 12 days per calendar year and a maximum of 4 days in any calendar month.

The Chairman then invited Mr. Stephenson and Ms. R. Ward, to put forward their case in support of the application.

Ms. Ward explained to the Members that she was the treasurer for the Ben Morse Foundation. The Foundation was established in memory of Benjamin Morse, who had met an untimely departure at the age of 36.

One of Ben's passions was music, so with Ben's passion in mind and to mark the first anniversary of his departure; a 'BenFest' event was organised (at a different location) in his home town of Halesowen in order to keep his memory alive.

Following on from the huge success of the event, it was decided to continue to hold future family festivals / events; and the Foundation was

formed in order to look at a two year delivery plan and to monitor and control any funds raised during that period.

The Foundation supported and aided local causes, community projects and those in need of help. It also aspired to encourage healthy community relationships by bringing people together from all different social and ethnic backgrounds; as the ethos of the Foundation was 'love and acceptance'.

The funds generated from events enabled the Foundation to offer support to local and worthy causes.

Ms. Ward stated that she recognised the impact that the event would have on residents and that she was willingly to engage with residents. The 'BenFest' music festival was not a commercial event. The farmer had kindly offered the Foundation the use of his field free of charge. Any monies raised from the 'BenFest' event would be given to charity.

Mr. Stephenson further informed the Sub-Committee that as highlighted by the Technical Officer (Licensing) WRS, he had agreed that should a licence be granted he would only use the field for licensable activities on a maximum of 12 days per calendar year and a maximum of 4 days in any calendar month.

Mr. Stephenson continued and stated that they were initially only looking to hold the 'BenFest' music festival in May 2020. However, he was also hoping to obtain sponsorship from other organisations for future events, he was not looking to plan other music festivals. The reason he had applied for 'Everyday' was in case he wanted to change the days when events would be held or hold two day events over the Bank Holiday periods. He was happy to have festival / event planning meetings with the local authority in order to look at security and risk assessments. He was also willing to give the local authority two months' notice of any planned events.

With regard to the concerns raised by residents in respect of noise nuisance he was more than happy to move the stage area to a more suitable location within the field. There was a slight slope to the field which he thought would slightly reduce any noise impact.

In response to questions from Members, Mr. Stephenson stated that the capacity limit for the field was 5,000. He thought he would struggle to sell that amount of tickets. Entrance would be ticketed, but if they did not reach 100% of ticket sales online, then tickets would be available to purchase at events on the day. He was hoping to attract approximately 2,500 customers. Events would have a Challenge 25 policy and it would be highlighted on the website that ID would need to be provided.

With regard to security, this would be outsourced to a company with music festival experience and Security Industry Authority (SIA) license holders.

Live band performances would also be shown on large television screens. He also envisaged that there would be some recorded music playing during any band changes. He was happy to liaise with residents.

With regard to litter, the field would be left litter free. They were considering the use of reusable cups, which could be included in the ticket price, whereby people could take their cup home as a memento.

Mr. Stephenson highlighted that he had worked in the industry for a number of years and was fully aware of the licensing objectives and his application detailed how he intended to promote those objectives. He would reassure residents that alcohol would not be sold to anyone who appeared to be drunk.

Bar staff would refuse to serve alcohol to anyone who appeared to be drunk. Anyone being difficult or rowdy would be ejected from the event by security staff. He was also willing to stop serving alcohol 30 minutes before the event finished. The security staff would be responsible for managing people leaving in an orderly fashion.

In response to further questions from Members, Mr. Stephenson stated that he had included the provision of films on the application form, just in case any private / corporate companies or businesses wanted to hold such an event. He was also looking at the possibility of holding corporate team building events, which he would oversee. It was very early days yet to be more specific. However, the Foundation might look to hold another music festival in May 2021.

Mr. Stephenson continued and commented that with regard to the bar area and stage area on the location map, as provided with the application form; that it was only an indication. Mr. Stephenson further stated that with regard to the concerns raised in respect of noise nuisance, he was willing to relocate the bar area and stage area, in order to address the concerns raised by local residents.

The Chairman invited Mr. P. Smith, Chairman, Hunnington Parish Council (on behalf of residents) and Mr. D. Stevens (on behalf of Mr. M. Russell) to put any questions to Mr. Stephenson.

In response to Mr. Smith, Mr. Stephenson informed all those present, that part of the day would be for families, with a specific section for a children's area. He could not imagine a lot of families with young children staying till the end.

Mr. Stevens expressed his condolences for Ben Morse and commented that it was a positive reason to hold a music festival.

He considered it important to engage with local residents. He was concerned with the potential for excessive noise from the stage area. He had witnessed other music events held in fields and the noise

carried. What practical noise mitigation would be put in place? The capacity of the field to accommodate 5,000 could potentially see 1,000 vehicles at the event, which would be in his opinion dangerous and difficult to manage.

Mr. Stevens continued and stated that he was also concerned with people getting drunk, even though bar staff would refuse to serve anyone who appeared to be drunk; he still had concerns that once they were drunk it was too late. Could there be a 30 minute 'drinking up' period? The area where the field was located was a quiet residential area and this would be disrupted with a large amount of people, contractors and vehicles arriving and departing from the field.

Mr. Stevens expressed further concern that the applicant had included things on the application form 'just in case' It was all rather vague, which caused further apprehension and anxiety. The plan submitted showed the bar area at the rear of the field right by the residential properties. There was too much flexibility as any number of bars could be placed there.

In response Mr. Stephenson stated that going forward the location of the bars could be agreed, it was not a huge concern. Currently there was nothing set in stone as such, he had just provided a rough overview.

The only criteria would be that the bars would need to be spread out in order to avoid any bottlenecks with people queuing to be served. 'Drinking up' time no longer existed. He was trying to be proactive and had offered to stop serving alcohol 30 minutes earlier than shown on the application form. Vehicles and people arriving / leaving events could be managed. However, he was more than happy to adhere to any further restrictions / conditions. He had already agreed to the additional condition, as detailed at paragraph 2.4 in the report, with regard to holding licensable activities on a maximum of 12 days per calendar year and for a maximum of 4 days in any calendar month.

In response to Mr. Smith, Mr. Stephenson commented that the application had been advertised accordingly as required.

Mr. Stevens highlighted to Members that whilst accepting the positive reasons for holding the music festival, it would be in a contained space and would interfere with residents enjoying their homes.

At the invitation of the Chairman, the Senior Practitioner, Environmental Health, Worcestershire Regulatory Services (WRS) addressed the Committee. The Senior Practitioner stated that whilst not unsympathetic to the case put forward by Ms. Ward to raise funds for the Foundation; the representation submitted on behalf of Environmental Health, WRS, as a Responsible Authority, was under 'The Prevention of Public Nuisance'.

The Senior Practitioner highlighted that she had concluded that in her professional opinion, the location of the site and its close proximity to residential properties was such that there were no mitigating measures that would reduce or prevent noise transmission. The slope in the field would not reduce noise levels in any way and in her opinion there were no suitable conditions or repositioning of the stage that could be tailored to the type, nature and characteristics of this specific premises and the licensable activities sought.

In her professional view, as detailed in her representation “the number of concerts and other amplified music events in a field where the proximity of residential properties is less than 300mpresents a serious risk of noise impacting on residents.”

The Senior Practitioner informed the Sub-Committee that she also attended the local authority Safety Advisory Group (SAG); which provided a forum for discussing and advising on public safety at events, in order to help organisers with the planning and management of events. There were currently issues with outdoor cinemas creating noise nuisance.

At the invitation of the Chairman, Mr. Smith, and Mr. Stevens addressed the Sub-Committee; in objection to the application.

Mr. Stevens informed the Sub-Committee that he was concerned by the amount of noise that would be generated by live bands / film shows. He could not think of any mitigation to reduce excessive noise which could be put in place whereby residents would not be disturbed by excessive noise; more specifically families with young children.

He was also concerned with congestion being caused by the number of vehicles arriving at the site. The area itself was poorly lit and had poor public transport. It should be taken into consideration that a large number of people would be leaving events late at night, thus generating further noise nuisance. As highlighted by Mr. Stephenson there would be security to deal with people directly leaving at the site, but there would be no security once people were walking away from the site. As stated earlier the area was poorly lit and therefore there was the potential for accidents to occur.

With regard to the potential of anti-social behaviour, he did not mean stop selling alcohol 30 minutes before, as that, in his opinion would not make a difference if people were already drunk.

Mr. Smith stated that he was disappointed that the applicant had not liaised with residents or Hunnington Parish Council before submitting his application. He was in attendance on behalf of residents, who had not been made aware of the good cause of the music festival. Residents were apprehensive with the potential for 12 events per year.

Public safety was a concern, as previously highlighted by Mr. Stevens. The area was poorly lit; however any lights placed on / around the site could potentially cause further disruption to local residents. Residents were also concerned that there would be added disruption and noise nuisance with contractor's vehicles entering / leaving the site in order to set up any events.

In summing up, Mr. Stevens reiterated that the three main concerns / issues, as raised by residents: excessive noise, anti-social behaviour and congestion had not been fully addressed.

In summing up, Mr. Smith reiterated that residents were extremely apprehensive about 12 events being held in any calendar year, in a village location.

In summing up, the Senior Licensing Practitioner commented that she had nothing further to add, the representation was with regard to the 'Prevention of Public Nuisance', and that, in her opinion, there were no mitigating measures that could be put in place to mitigate excessive noise nuisance.

In summing up, Mr. Stephenson also reiterated that he was more than happy to abide by any additional conditions. He had already stated that he was happy to finish serving alcohol 30 minutes earlier and that he was happy to finish the music festival an hour earlier, in order to ensure that the music festival was a success.

The Council's Legal Advisor questioned Mr. Stephenson as to the potential number of people expected to attend, as he had informed Members that the field could accommodate 5,000 people. How would queues be managed and would people be able to buy tickets on the day?

Mr. Stephenson responded and highlighted that as stated earlier he was hoping to attract 2,500 people to the music festival. He would hope to achieve 99% of tickets sales (in advance) via the website. Online ticket sales would determine if tickets could be purchased on the day. If the number of advanced ticket sales was not achieved, tickets would be made available to purchase on the day. It was the first music festival at the site and he was happy to abide with limiting the number of people attending. There would be several entry points and entry would be computer controlled.

The Council's Legal Advisor informed all those present that a licence was not required to stage a performance of live music, or the playing of recorded music if:

- it takes place between 8AM and 11PM; and
- it takes place at an alcohol on-licensed premises; and
- the audience was no more than 500 people

The Council's Legal Advisor clarified that because of the potential number of people expected to attend (in excess of 500); that the playing of recorded music and the performance of live music would be a licensable activity. Therefore Members would need to consider this as part of their deliberation.

The Council's Legal Advisor further informed Members that they should consider the four licensing objectives and the written and oral representations as presented during the course of the Hearing.

The Sub-Committee should only take account of evidence that could be directly attributed to these particular premises. As yet the premises had not held any events, so it was difficult to attribute the concerns raised by residents. However, Members should be mindful of the representation submitted on behalf of Environmental Health, Worcestershire Regulatory Services, as a Responsible Authority under 'The Prevention of Public Nuisance' and the professional opinion of the Senior Practitioner.

Members should also be mindful of the additional conditions offered by the applicant in order to address some of the concerns raised by residents; namely to stop serving alcohol 30 minutes earlier and to stop any music one hour earlier.

With regard to the concerns raised by residents and anti-social behaviour, she would ask Members to note that no representations had been received from West Mercia Police.

Members should disregard any issues which fell outside of the Licensing Sub-Committee's jurisdiction, namely, car parking or Worcestershire County Council, Highways matters; and any references to activities already taking place at the location. The Sub-Committee must only consider those matters and evidence directly relevant to the premises.

Having had regard to:

- The licensing objectives set out in the Licensing Act 2003.
- The Council's Statement of Licensing Policy.
- The guidance issued under section 182 of the Act.
- The Report presented by the Technical Officer, Licensing, Worcestershire Regulatory Services.
- The application and oral representations made at the Hearing by the Applicant, Mr. William Stephenson and Ms Rachel Ward, Treasurer, Ben Morse Foundation.
- The written representations and oral representations made at the Hearing by Mr. David Stevens (on behalf of Mr. Mathew Russell) and Mr. Paul Smith, Chairman, Hunnington Parish Council
- The written representations submitted by residents.
- The written and oral representation made at the Hearing by the Responsible Authority, Environmental Health, Worcestershire Regulatory Services, Ms Helen Cameron, Senior Practitioner.

- The written representation made by Hereford and Worcester Fire & Rescue Service, as a Responsible Authority.

The Sub-Committee decided to grant the application for a premises licence relating to Bibbey DC & Sons, 472 Bromsgrove Road, Romsley, Halesowen, Worcestershire, B62 0JL. The licence would be limited to two days per calendar year and would include conditions consistent with those in the Operating Schedule with the following modification and additional conditions:

- The licensable activities to be permitted from 10:00 to 22:00.
- The security staff to be Security Industry Authority (SIA) licensed.
- A Challenge 25 Policy.
- A Full Event Management Plan (EMP) and Fire Risk Assessment to be submitted to the Hereford and Worcester Fire & Rescue Service for comment and approval and other regulatory bodies a minimum of 2 months prior to the events taking place; as agreed between the applicant and Hereford and Worcester Fire & Rescue Service prior to the Hearing.
- Signage to be placed prominently at the site, reminding customers that they are in a residential area and to keep noise levels to a minimum, by leaving in a quiet, orderly and respectful manner.

The reasons for the Sub-Committee's decision were as follows:

- The Sub-Committee considered the written application submitted by the applicant, Mr. Stephenson and the oral representations and additional information provided at the Hearing from both Mr. Stephenson and Ms. Ward.
- Members noted the principle reason for seeking the premises licence was to enable a music festival to be held to raise funds for the Ben Morse Foundation. This was to be a charitable event in May 2020 with the money raised being donated to support local good causes.
- Although the main focus of the licence was to accommodate the music festival, the Sub-Committee noted that the application was sought for licensable activities up to a maximum of 12 days per calendar year with a maximum of 4 days in any calendar month.
- The Sub-Committee was concerned that the applicant did not have a clear business plan for the remaining 11 events and whilst it was suggested that this may include outdoor cinema nights and corporate business team building events, the details were vague as to what or when such events would be held. The Sub-Committee considered this to be a relevant factor as the premises could hold up to 5,000 attendees.

- As the plan identified the site as a field it was apparent to the Sub-Committee that the window of opportunity for holding events would be limited to the summer months. The number of days applied for could result in large scale events every weekend throughout the summer months, which the Sub-Committee considered would cause a public nuisance; namely noise resulting from either recorded or live music.
- The Sub-Committee noted that the site could accommodate up to 5,000 attendees and as stated by Mr. Stephenson it was anticipated that the first music festival would attract at least 2,500 attendees.
- Particular regards was given to the nature of the site and the proximity of the residential properties. Members had conducted a site visit and in considering the public nuisance, had regard to the effect the licensable activities at the specific premises would have on those living close to the area.
- The Sub-Committee gave considerable weight to the representation submitted on behalf of Environmental Health, Worcestershire Regulatory Services, as a Responsible Authority under 'The Prevention of Public Nuisance'. The Senior Practitioner had concluded that in her professional opinion, the location of the site and its close proximity to residential properties was such that there were no mitigating measures that would reduce or prevent noise transmission. The Senior Practitioner did not consider that the slope of the field would reduce the noise levels in any way and in her opinion there were no suitable conditions that could be tailored to the type, nature and characteristics of this specific premises and the licensable activities sought. It was the view of the Senior Practitioner that "the number of concerts and other amplified music events in a field where the proximity of residential properties is less than 300mpresents a serious risk of noise impacting on residents."
- The Sub-Committee considered the representations submitted by and on behalf of the residents. The Sub-Committee did not find evidence to support representations that anti-social behaviour was likely and in particularly noted that West Mercia Police had not made any representations. The Sub-Committee disregarded references to activities which were already taking place at the location; these did not fall within the licensing remit and therefore were not considered relevant for the purposes of determining the application.
- The Sub-Committee noted the comments made by the residents with regards to the potential for noise nuisance and considered that there was a genuine concern that the level of music would impact significantly on them. Whilst the premises was yet to operate as a music festival, the Sub-Committee concluded that the nature of the potential events coupled with the representation submitted by the Responsible Authority, Environmental Health, Worcestershire Regulatory Services, would undermine the public nuisance licensing

objective should events be allowed to occur at the frequency applied for.

- The Sub-Committee was required to focus on the promotion of the licensing objectives and having had regard to the representations made by all concerned parties, Members concluded that a publicised annual event and one further event could be licensed with conditions as detailed. The Sub-Committee considered that this would be proportionate and that two such events concluding at 22:00hrs would enable the music festival to go ahead along with one other event. Allowing one additional day would also provide some flexibility either with regards to the proposed music festival or for a further fundraising event or other activity. Allowing any more than two events would, due to the nature of the site, the intended use and the number of attendees, amount to a public nuisance due to the frequency and consistent interruption to the lives of those living in close proximity to the site.
- The Sub-Committee would remind all parties of the review process that applied to any premises that failed to promote the licensing objectives. Any party was able to request a review of a licence where evidence indicated that the licensing objectives were not being met.

The following legal advice was given:

- That the Licensing Objectives must be the paramount consideration.
- That the Sub-Committee may only have regard to the representations which promote the four licensing objectives.
- The Sub-Committee must consider only those matters directly relevant to the premises under consideration and only those matters that fall under the Licensing Sub-Committee's jurisdiction.
- The Sub-Committee may not modify the conditions or reject the whole or part of the application merely because it considers it desirable to do so. Conditions must be appropriate in order to promote the licensing objectives.
- The review process was available to any party if evidence was established to indicate that the licensing objectives were not being met.

An appeal to the Magistrates' Court against the Sub-Committee's decision must be lodged within 21 days of the date on which written confirmation of the decision was received by the Applicant.

The meeting closed at 7.06 p.m.

Chairman